G-008/M-91-1015 ORDER DENYING PETITION FOR RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of a Request by Minnegasco for Approval of Deferred Accounting for Manufactured Gas Plant Site Investigation, Monitoring, and Remediation Costs	ISSUE DATE: November 24, 1992 DOCKET NO. G-008/M-91-1015 ORDER DENYING PETITION FOR RECONSIDERATION

PROCEDURAL HISTORY

I. Proceedings to Date

On August 11, 1992, The Commission issued its ORDER ALLOWING DEFERRED ACCOUNTING TREATMENT AND REQUIRING INFORMATION in the above-captioned matter.

On September 1, 1992, Minnegasco, a Division of Arkla, Inc. (Minnegasco or the Company) filed a petition for reconsideration and rehearing.

On September 21, 1992, the Commission issued its ORDER GRANTING REHEARING. The Commission found that Minnegasco had filed its petition for reconsideration and rehearing too late to be entitled consideration of its petition. Nevertheless, the Commission on its own motion waived its 20 day filing deadline rule and recognized the company's petition. The Commission granted the petition for rehearing to toll the statute and allow an opportunity for meaningful review of the Company's petition for reconsideration.

On October 1, 1992, the Minnesota Department of Public Service (the Department) filed comments regarding the merits of the Company's petition.

On November 5, 1992, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

On its own motion, the Commission has examined the arguments propounded by Minnegasco in support of its petition for reconsideration and rejects them. Many of the Company's arguments for reconsideration simply reiterated arguments made prior to the August 11, 1992 Order and addressed in that Order. With respect to those arguments, the Commission will not restate its reasons for rejecting them. The Commission will affirm its August 11, 1992 Order in this matter.

II. Commission Review

In its August 11, 1992 Order, the Commission found that Minnegasco's recording of Manufactured Gas Plant (MGP) investigation and remediation costs in Account 186-Miscellaneous Deferred Debits without obtaining Commission approval was improper in two respects. First, the Commission noted that the text of Account 186 clearly excludes debits "elsewhere provided for" and found that the Company's MGP costs were debits that were clearly "elsewhere provided for" by the uniform system of accounts. Indeed, the Company had been recording those expenses in appropriate accounts provided for that purpose since 1982. Second, the Commission concluded that pursuant to Minn. Rules, Part 7825.0300, subp. 4 such costs could be properly recorded in Account 186 only after the Commission, upon petition from the Company, granted an exception to do so <u>for good cause shown</u>.

The Commission then examined the circumstances surrounding the debits in question (the 1991 MGP costs) and found that the Company had failed to show good cause for granting the Company's untimely request for approval of such accounting treatment.

A. MGP Costs Do Not Automatically Belong in Account 186

In its petition for reconsideration, Minnegasco disputed the Commission's finding that its 1991 MGP costs did not automatically fit into Account 186. The Company denied that its MPG costs were "elsewhere provided for" in the uniform system of accounts, noting that nowhere in the system of accounts was there an account labeled manufactured gas plant remediation costs. The Commission disagrees. For accounting purposes, costs are unbundled and viewed in their most basic form. The uniform system of accounts "provides for" MGP costs by having an account for each component cost that the Company has bundled together and termed MGP costs. A cost does not become unprovided for when a company bundles it together with other costs and gives the conglomeration of costs a composite name.

The Company also asserted that its only error was that it had ever recorded its MPG costs in accounts other than Account 186.

The Company reasoned that if it had recorded the costs in Account 186 from the beginning, the costs would never have been "otherwise provided for" and, hence, would have been properly placed in Account 186. This is incorrect. Under the language of Account 186, the question is not how a company has historically chosen to record its costs but whether the system of accounts provides accounts in which those costs are properly recordable. If, as here, the uniform system of accounts contains accounts into which these costs are properly recordable, the costs do not belong in Account 186.

B. Placement of MGP Costs in Account 186 Without Prior Commission Approval Is Improper

Minnegasco reiterated its argument that Instruction 7 of the uniform system of accounts only requires seeking Commission approval before recording extraordinary expenses in Account 186 if such costs exceed 5 percent of the Company's net income. The Company failed to respond to the Commission's finding in the August 11, 1992 Order that Instruction 7 relates to Account 434-Extraordinary Income and Account 435-Extraordinary Deductions and has no application to Account 186.

C. Absence of Good Cause to Grant an Exception

Minnegasco indicated that the Commission has good cause to grant an exception to the provisions of Account 186 and approve the Company's untimely request to record its 1991 MGP costs to Account 186 for four reasons:

1. Good Faith Belief

Minnegasco reasserted that it had a good faith and reasonable belief that Commission approval was not necessary. The Commission continues to believe, for the reasons stated in the August 12, 1992 Order, that any such belief would not have been reasonable.

2. Quick Corrective Action

Minnegasco argued that the Commission should consider that the Company moved quickly to correct what it termed a "potential compliance problem" shortly after being alerted to the issue by the Department. The Commission cannot give significant weight to the swiftness of any action taken following prompting from the Department.

3. Appropriateness of the Costs

Minnegasco argued that the Commission should allow the 1991 MGP costs to be recorded in Account 186 because the costs were necessary to comply with federal and state environmental laws. This fact, which the Commission does not dispute, is not relevant to the question at hand: whether the Company's action of recording these costs in Account 186 prior to Commission approval should be approved.

4. Commission Precedent

The Company stated that the prior approval requirement was appropriate but that in this Order the Commission should approve the Company's action because the Commission has not heretofore clearly established that requirement. Minnegasco cited the Commission's September 21, 1989 Order regarding NSP's nuclear decommissioning costs as an instance where the Commission has approved recording costs to Account 186 prior to petitioning the Commission for approval to do so. The Company urged the Commission to use the current Order to clearly enunciate that requirement.

The Company has substantially misstated the Commission's September 21, 1989 NSP Order. As the Commission noted in its August 12, 1992 Order in this matter (page 6, footnote 3), NSP did not begin recording costs in Account 186 without Commission approval, as Minnegasco did in this case. Instead, NSP filed a proposal to accumulate decommissioning costs in Account 186 on March 2, 1989 and the Commission approved a Settlement of the matter between NSP, the RUD-OAG, and the Department on September 21, 1989 authorizing the amortization of those costs over a 5-year period beginning January 1, 1990 or the first day of the test year of the next general rate case, whichever occurred first. Rather than standing for the proposition that a utility may record costs in Account 189 without prior Commission approval, the Order is an instance where Commission approval was properly sought and granted before recording in Account 186 was undertaken.

There is no need to further clarify or enunciate the requirement that utilities secure prior approval from the Commission before recording costs in Account 186 before utilities will be bound to observe this requirement. The source of the requirement is the Commission's rules. See pages 3-5 of the August 12, 1992 Order. Pursuant to these rules, Minnegasco was clearly required to petition the Commission for an exception to the system of accounts before recording MGP costs in Account 186.

The Commission notes that other utilities have not found the ambiguity that Minnegasco asserted on this issue. At least two other utilities have followed the proper process before deferring costs in Account 186 during this time-period. See <u>In the Matter of a Request by Peoples Natural Gas for Approval of Accounting Procedures for its Manufactured Gas plant Site Investigation and Clean-up Costs</u>, G-011/M-90/1135, ORDER (March 26, 1991); and <u>In the Matter of the Petition of Northern States Power Company for Approval of a Specific Accounting Procedure for Nuclear Decommissioning Costs of the Pathfinder Atomic Power Plant</u>, Docket No. E-002/M-89-120, ORDER ACCEPTING AND ADOPTING SETTLEMENT AGREEMENT (September 21, 1989).

III. Commission Action

Based on its foregoing review of this matter, the Commission will deny Minnegasco's petition for reconsideration and affirm its August 11, 1992 Order in this matter.

ORDER

1. Minnegasco's petition for reconsideration is denied and the Commission's August 11, 1992 Order in this matter is affirmed.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)